

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**ADAMS & BOYLE, P.C., on behalf of itself and  
its patients; WESLEY F. ADAMS, JR., M.D., on  
behalf of himself and his patients; and MEMPHIS  
CENTER FOR REPRODUCTIVE HEALTH, on  
behalf of itself and its patients,**

**Plaintiffs,**

**v.**

**HERBERT H. SLATERY III, Attorney General of  
Tennessee, in his official capacity; JOHN  
DREYZEHNER, M.D., Commissioner of the  
Tennessee Department of Health, in his official  
capacity; MICHAEL D. ZANOLLI, M.D.,  
President of the Tennessee Board of Medical  
Examiners, in his official capacity, GLENN R.  
FUNK, District Attorney General of Nashville, in  
his official capacity; AMY WEIRICH, District  
Attorney General of Shelby County, in her official  
capacity; and BARRY P. STAUBUS, District  
Attorney General of Sullivan County, in his  
official capacity;**

**Defendants.**

**CIVIL ACTION**

**CASE NO. 3:15-cv-00705**

**JUDGE SHARP  
MAGISTRATE JUDGE  
KNOWLES**

**STIPULATED MOTION TO STAY**

Plaintiffs Adams & Boyle, P.C., Wesley F. Adams, Jr., M.D., and Memphis Center for Reproductive Health, and Defendants Herbert H. Slatery III, John Dreyzehner, M.D., Michael D. Zanolli, M.D., Glenn R. Funk, Amy Weirich, and Barry P. Staubus, in their official capacities (collectively, the “Parties”), by and through their undersigned attorneys, file this joint motion for entry of a Stipulated Stay Order, staying all proceedings in this matter, including the Initial Case Management Order and all discovery, pending a final disposition by the United States Supreme

Court in *Whole Woman's Health v. Cole*, 790 F.3d 563 (5th Cir. 2015) (per curiam), *modified*, 790 F.3d 598 (5th Cir. 2015) (mem.), *cert. granted*, No. 15-274 (U.S. Nov. 13, 2015). Oral argument in *Whole Woman's Health* is anticipated in early March 2016, and a decision is expected no later than June 2016.

The United States Supreme Court, in *Whole Woman's Health*, is expected to clarify whether a court applying the undue burden standard of *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992), should consider whether and to what extent laws that restrict abortion for the stated purpose of promoting health actually serve the government's interest in promoting health. *Whole Woman's Health* involves two Texas laws related to abortions, an admitting-privileges requirement and an ambulatory surgery center requirement, that are substantially similar to two of the Tennessee statutes related to abortions, which are challenged in the instant case.<sup>1</sup> Discovery has not yet begun in this case, and the standards expected to be addressed by the Supreme Court will be critical for developing and evaluating the relevant evidence in this case. Accordingly, principles of judicial economy strongly counsel a stay pending the Supreme Court's decision in *Whole Woman's Health*.

Plaintiff Adams & Boyle, P.C. agrees, during the pendency of any stay, to proceed in good faith with the process for licensure of its Bristol and Nashville clinics as ASTCs by the Tennessee Department of Health, and Defendant John Dreyzehner, M.D., on behalf of the Tennessee Department of Health, agrees to perform in good faith the Department's review, regulatory and approval functions in connection with the clinics.

WHEREFORE, the Parties respectfully request the Court to enter a Stipulated Stay

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<sup>1</sup> *Whole Woman's Health* does not involve any restriction like the third restriction challenged in this case, the 48-hour notice law. However, the Supreme Court may well provide further guidance on how to apply the undue burden test that will bear on the constitutional analysis of this restriction.

Order, staying all proceedings in this matter, including the Initial Case Management Order, and all discovery, pending a final judgment by the United States Supreme Court in *Whole Woman's Health v. Cole*.

Dated: December 16, 2015

Respectfully submitted,

/s/ Scott P. Tift

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*\*Admitted to practice pro hac vice by Order  
dated June 26, 2015*

/s/ Steven A. Hart by SPT w/ permission  
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *Stipulated Motion to Stay* has been served on the following counsel of record through the Electronic Filing System on this 16th day of December, 2015:

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